IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELALTE SIDE

WRIT PETITION NO.9273 OF 2005

Harichandra Gopal Chavan. ...Petitioner.

Versus

Gopal Ganpat Chavan (Deceased) & Anr. ...Respondents.

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Mr. D. S. Sawant with Mr. Rahul Walwekar for the Petitioner.

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CORAM : DR. D.Y. CHANDRACHUD, J.

April 12, 2006.

P.C.:

The suit filed by the Petitioner for a declaration that he was a lawful sub-tenant of his father, the original First Defendant, has been dismissed and the dismissal has been upheld in appeal. The Petitioner's father was himself a sub-tenant of the Second Defendant who was the original tenant. The declaration, therefore, sought was that the Petitioner was a lawful sub-tenant of the original sub-tenant. In this regard the findings of fact that have been recorded are that admittedly that the original licence stood in the name of the First Defendant; there is no evidence of surrender of the sub-tenancy by the father and that admittedly, the rent receipt never stood in the name of the Petitioner. The Petitioner was also aware of the prior suit filed by the Second Defendant

against the First Defendant which ended in a compromise decree under which the First Defendant handed over possession to the Second Defendant in execution. The Petitioner lost possession in 1975. The exercise of the supervisory jurisdiction under Article 227 of the Constitution is not warranted. There are concurrent findings of fact. There is no merit in the petition which is accordingly dismissed.

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